

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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SHANE RHOOMS,

Plaintiff,

-against-

CITY OF NEW YORK, ROBERT ORTLIEB, Individually,
ROBERT HENDERSON, Individually, JOSEPH SEMINARA,
Individually, DEVON FREED, Individually, and JOHN DOE 1,
Individually, (the name John Doe being fictitious, as the true
name is presently unknown),

Defendants.
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**DECLARATION
OF BRETT H.
KLEIN**

11 CV 5910
(PKC) (RER)

BRETT H. KLEIN, declares under penalty of perjury pursuant to 28 U.S.C. § 1746 that
the following is true and correct:

1. I am the attorney for plaintiff SHANE RHOOMS in the above-captioned action. I
make this declaration in support of plaintiff's memorandum of law and Local Rule 56.1
Statement in opposition to defendants' motion for summary judgment.

2. Attached hereto as Exhibit 1 are excerpts from the deposition of Lieutenant Frank
Sciortino conducted on October 21, 2014.

3. Attached hereto as Exhibit 2 are excerpts from the deposition of defendant
Lieutenant Robert Henderson conducted on July 30, 2013.

4. Attached hereto as Exhibit 3 are excerpts from the deposition of defendant
Lieutenant Robert Ortlieb conducted on July 31, 2013.

5. Attached hereto as Exhibit 4 are excerpts from the deposition of defendant
Sergeant Joseph Seminara conducted on November 5, 2013.

6. Attached hereto as Exhibit 5 are excerpts from the deposition of NYPD Detective Gregory Barrett conducted on November 21, 2014.

7. Attached hereto as Exhibit 6 are excerpts from the depositions of defendant Detective Devon Freed conducted on December 16, 2013 and February 18, 2015.

8. Attached hereto as Exhibit 7 are excerpts from the deposition of plaintiff Shane Rhooms conducted on February 20, 2015.

9. Attached hereto as Exhibit 8 are excerpts from the deposition of Kings County Assistant District Attorney Lewis Lieberman conducted December 18, 2013.

10. Attached hereto as Exhibit 9 is a copy of the criminal court complaint filed against plaintiff in Kings County Criminal Court under Docket No. 2010KN071284, Bates numbered NYC 40.

11. Attached hereto as Exhibit 10 are excerpts from the deposition of police officer Daniel Insogna conducted on October 30, 2014.

12. Attached hereto as Exhibit 11 are diagrams of the purported shooting marked by defendants Seminara, Ortlieb, and Henderson, respectively, during their interviews with the Internal Affairs Bureau regarding the shooting, Bates numbered NYC 482-NYC 484.

13. Attached hereto as Exhibit 12 is a copy of the Final Report – Firearm Discharge within the Confines of Partrol Borough Brooklyn South dated November 16, 2011 which was produced by defendants without Bates numbers as part of the Internal Affairs Bureau's investigatory file.

14. Attached hereto as Exhibit 13 is the Crime Scene Unit Recap Sheet documenting the initial search of the crime scene which was conducted at approximately 2:45 a.m. on September 6, 2010, Bates numbered NYC 45-NYC 46.

15. Attached hereto as Exhibit 14 is a copy of property clerk invoice number R470998, documenting the ballistic evidence that was vouchered subsequent to the initial search conducted on September 6, 2010, Bates numbered NYC 550.

16. Attached hereto as Exhibit 15 is the Crime Scene Unit Scene Report documenting the second search of the crime scene which was conducted at approximately 2:45 p.m. on September 6, 2010, and which was produced on a compact disk Bates numbered NYC 4501.

17. Attached hereto as Exhibit 16 is a copy of property clerk invoice number R470999, documenting the ballistic evidence that was vouchered subsequent to the second search conducted on September 6, 2010, Bates numbered NYC 449.

18. Attached hereto as Exhibit 17 is a copy of crime scene unit photograph 1283809583135_DSC_3744, which was produced on a compact disk Bates numbered NYC 4501.

19. Attached hereto as Exhibit 18 is a copy of crime scene unit photograph 1283809814221_DSC_3770, which was produced on a compact disk Bates numbered NYC 4501.

20. Attached hereto as Exhibit 19 is a copy of crime scene unit photograph 1283816521145_CSU_0006, which was produced on a compact disk Bates numbered NYC 4501.

21. Attached hereto as Exhibit 20 is a copy of crime scene unit photograph 12838161653571_CSU_0012, which was produced on a compact disk Bates numbered NYC 4501.

22. Attached hereto as Exhibit 21 are excerpts from the deposition of Trevor Perez conducted on November 7, 2013.

23. Attached hereto as Exhibit 22 is a copy of the false statement Trevor Perez was coerced into writing on September 6, 2010, at 4:30 a.m., Bates numbered NYC 187.

24. Attached hereto as Exhibit 23 are excerpts from the deposition of Lieutenant Michael Enright conducted on November 20, 2014.

25. Attached hereto as Exhibit 24 is a copy of Complaint - Follow Up (hereinafter referred to as "DD5") No. 23, Bates numbered NYC 227.

26. Attached hereto as Exhibit 25 is a copy of DD5 No. 20, with corresponding attachments, Bates numbered NYC 4073-NYC 4076.

27. Attached hereto as Exhibit 26 is a copy of DD5 No. 14, Bates numbered NYC 211.

28. Attached hereto as Exhibit 27 is a copy of the wanted poster prepared by defendant Freed, Bates numbered NYC 4052.

29. Attached hereto as Exhibit 28 is a copy of DD5 No. 25, Bates numbered NYC 229.

30. Attached hereto as Exhibit 29 is a copy of DD5 No. 31, Bates numbered NYC 240.

31. Attached hereto as Exhibit 30 are excerpts from the deposition of plaintiff's cousin, Alhue Gayle conducted on December 20, 2013.

32. Attached hereto as Exhibit 31 is a copy of DD5 No. 26, Bates numbered NYC 231.

33. Attached hereto as Exhibit 32 is a copy of plaintiff's handwritten statement regarding his whereabouts on September 6, 2010, which he voluntarily provided to investigators on September 6, 2010 at approximately 7:30 p.m., Bates numbered NYC 7.

34. Attached hereto as Exhibit 33 is a copy of the cell phone records for plaintiff's phone obtained through NYPD's TARU system on September 6, 2010 at 5:37 p.m., Bates numbered NYC 4152-NYC 4157.

35. Attached hereto as Exhibit 34 are excerpts from the deposition of Sergeant Scott Kienle conducted on October 23, 2014.

36. Attached hereto as Exhibit 35 is a copy of DD5 Nos. 27-29, with attachments, Bates numbered NYC 4085-4091.

37. Attached hereto as Exhibit 36 is a copy of the Indictment which was filed against plaintiff under Indictment No. 7974/2010.

38. Attached hereto as Exhibit 37 is a copy of the Grand Jury testimony of defendants Seminara and Henderson provided on September 10, 2010, Bates numbered NYC 4454-NYC 4474.

39. Attached hereto as Exhibit 38 is a copy of the certificate of disposition confirming that all charges lodged against plaintiff were dismissed and sealed on December 21, 2010, Bates numbered NYC 1.

40. Attached hereto as Exhibit 39 is a compact disk which contains the 67th Precinct radio transmissions relating to the incident.

Dated: New York, New York
March 17, 2015

BRETT H. KLEIN, ESQ., PLLC
Attorneys for the Plaintiff
305 Broadway, Suite 600
New York, New York 10007
(212) 335-0132

By: /s/ Brett H. Klein
BRETT H. KLEIN

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Plaintiff,

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